

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 14, 2003

AMENDED IN SENATE APRIL 8, 2003

## SENATE BILL

No. 151

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### **Introduced by Senator Burton**

**(Coauthors: Senators Aanestad, Kuehl, and Torlakson)**

(Coauthors: Assembly Members Berg, Canciamilla, Cohn, Dymally, ~~Leno~~, Hancock, Horton, Koretz, Leno, Lieber, Longville, and Lowenthal)

February 7, 2003

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An act to amend Sections 11165.1 and 11166 of, to amend and repeal Sections 11159.2, 11162, 11168, and 11169 of, to amend, repeal, and add Sections 11161, 11164, 11165, 11167, ~~and 11167.5~~ 11167.5, and 11190 of, and to add Sections 11029.5, 11161.5, 11161.7, ~~and 11162.1~~, ~~and 11162.5~~ 11162.1, 11162.5, and 11164.1 to, the Health and Safety Code, relating to controlled substances.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 151, as amended, Burton. Controlled substances: Schedule II.

Existing law provides that no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with specified requirements, one of which is that prescriptions for Schedule II controlled substances shall be prepared on triplicate prescription blanks issued by the Department of Justice. Existing law also provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified. The CURES

program is scheduled to become inoperative on July 1, 2008, and repealed on January 1, 2009. Existing law provides that a violation of any of these provisions is generally a misdemeanor.

This bill, the Treatment and Drug Diversion Prevention Act of 2003, would, on and after July 1, 2004, eliminate the triplicate prescription requirement for Schedule II controlled substances and would, on and after January 1, 2005, require prescribers of Schedule II controlled substances to meet the same prescription requirements imposed with respect to other prescribable controlled substances, as specified. The bill would on and after January 1, 2005, require prescriptions for any controlled substance to be issued on controlled substance prescription forms obtained from a security printer approved by the Board of Pharmacy, as specified. Between July 1, 2004, and January 1, 2005, these prescriptions would be permitted using either the triplicate form or the security forms. The bill would make the CURES program applicable to Schedule III drugs if there is adequate funding and would also provide for the indefinite continuation of the CURES program by deleting its repeal date. The bill would make it a crime to counterfeit a controlled substance prescription; knowingly possess a counterfeited controlled substance prescription; or obtain under false pretenses, or fraudulently produce, a controlled substance prescription, as specified. By creating new crimes, the bill would impose a state-mandated local program.

The bill would also revise provisions relating to electronically transmitted prescriptions and would add provisions authorizing pharmacies to dispense certain prescriptions from out-of-state prescribers, as specified. The bill would make conforming changes to related provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known as, and may be cited as,  
2 “the Pain Treatment and Drug Diversion Prevention Act of  
3 2003.”

4 SEC. 2. Section 11029.5 is added to the Health and Safety  
5 Code, to read:

6 11029.5. “Security printer” means a person approved to  
7 produce controlled substance prescription forms pursuant to  
8 Section 11161.5.

9 SEC. 3. Section 11159.2 of the Health and Safety Code is  
10 amended to read:

11 11159.2. (a) Notwithstanding any other provision of law, a  
12 prescription for a Schedule II controlled substance for use by a  
13 patient who has a terminal illness shall not be subject to Section  
14 11164.

15 (b) (1) The prescription shall be signed and dated by the  
16 prescriber and shall contain the name of the person for whom the  
17 controlled substance is prescribed, the name and quantity of the  
18 controlled substance prescribed, and directions for use. The  
19 signature, date, and information required by this paragraph shall  
20 be wholly written in ink or indelible pencil in the handwriting of  
21 the prescriber.

22 (2) The prescription shall also contain the address of the person  
23 for whom the controlled substance is prescribed, as provided in  
24 paragraph (3) of subdivision (b) of Section 11164, and shall  
25 contain the name, address, telephone number, category of  
26 professional licensure, and federal controlled substance  
27 registration number of the prescriber, as provided in paragraph (2)  
28 of subdivision (b) of Section 11164.

29 (3) The prescription shall also indicate that the prescriber has  
30 certified that the patient is terminally ill by the words “11159.2  
31 exemption.”

32 (c) A pharmacist may fill a prescription pursuant to this section  
33 when there is a technical error in the certification required by  
34 paragraph (3) of subdivision (b), provided that he or she has  
35 personal knowledge of the patient’s terminal illness, and  
36 subsequently returns the prescription to the prescriber for  
37 correction within 72 hours.

(d) For purposes of this section, “terminally ill” means a patient who meets all of the following conditions:

(1) In the reasonable medical judgment of the prescribing physician, the patient has been determined to be suffering from an illness that is incurable and irreversible.

(2) In the reasonable medical judgment of the prescribing physician, the patient’s illness will, if the illness takes its normal course, bring about the death of the patient within a period of one year.

(3) The patient’s treatment by the physician prescribing a Schedule II controlled substance pursuant to this section primarily is for the control of pain, symptom management, or both, rather than for cure of the illness.

(e) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 4. Section 11161 of the Health and Safety Code is amended to read:

11161. (a) Prescription blanks shall be issued by the Department of Justice in serially numbered groups of not more than 100 forms each in triplicate unless a practitioner orally, electronically, or in writing requests a larger amount, and shall be furnished to any practitioner authorized to write a prescription for controlled substances classified in Schedule II. The Department of Justice may charge a fee for the prescription blanks sufficient to reimburse the department for the actual costs associated with the preparation, processing, and filing of any forms issued pursuant to this section. The prescription blanks shall not be transferable. Any person possessing a triplicate prescription blank otherwise than as provided in this section is guilty of a misdemeanor.

(b) When a practitioner is named in a warrant of arrest or is charged in an accusatory pleading with a felony violation of Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351, 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5, or 11379.6, the court in which the accusatory pleading is filed or the magistrate who issued the warrant of arrest shall, upon the motion of a law enforcement agency which is supported by reasonable cause, issue an order which requires the practitioner to surrender to the clerk of the court all triplicate prescription blanks in the practitioner’s possession at a time set in the order and shall direct the Department of Justice to withhold prescription blanks

1 from the practitioner. The law enforcement agency obtaining the  
2 order shall notify the Department of Justice of this order. Except  
3 as provided in subdivisions (c) and (f) of this section, the order  
4 shall remain in effect until further order of the court. Any  
5 practitioner possessing prescription blanks in violation of the  
6 order is guilty of a misdemeanor.

7 (c) The order provided by subdivision (b) shall be vacated if the  
8 court or magistrate finds that the underlying violation or violations  
9 are not supported by reasonable cause at a hearing held within two  
10 court days after the practitioner files and personally serves upon  
11 the prosecuting attorney and the law enforcement agency that  
12 obtained the order, a notice of motion to vacate the order with any  
13 affidavits on which the practitioner relies. At the hearing, the  
14 burden of proof, by a preponderance of the evidence, is on the  
15 prosecution. Evidence presented at the hearing shall be limited to  
16 the warrant of arrest with supporting affidavits, the motion to  
17 require the defendant to surrender all triplicate prescription blanks  
18 with supporting affidavits, the sworn complaint together with any  
19 documents or reports incorporated by reference thereto which, if  
20 based on information and belief, state the basis for the information,  
21 or any other documents of similar reliability as well as affidavits  
22 and counter affidavits submitted by the prosecution and defense.  
23 Granting of the motion to vacate the order is no bar to prosecution  
24 of the alleged violation or violations.

25 (d) The defendant may elect to challenge the order issued under  
26 subdivision (b) at the preliminary examination. At that hearing, the  
27 evidence shall be limited to that set forth in subdivision (c) and any  
28 other evidence otherwise admissible at the preliminary  
29 examination.

30 (e) If the practitioner has not moved to vacate the order issued  
31 under subdivision (b) by the time of the preliminary examination  
32 and he or she is held to answer on the underlying violation or  
33 violations, the practitioner shall be precluded from afterwards  
34 moving to vacate the order. If the defendant is not held to answer  
35 on the underlying charge or charges at the conclusion of the  
36 preliminary examination, the order issued under subdivision (b)  
37 shall be vacated.

38 (f) Notwithstanding subdivision (e), any practitioner who is  
39 diverted pursuant to Chapter 2.5 (commencing with Section 1000)

1 of Title 7 of Part 2 of the Penal Code may file a motion to vacate  
2 the order issued under subdivision (b).

3 (g) This section shall become inoperative on July 1, 2004, and,  
4 as of January 1, 2005, is repealed.

5 SEC. 5. Section 11161 is added to the Health and Safety Code,  
6 to read:

7 11161. (a) When a practitioner is named in a warrant of arrest  
8 or is charged in an accusatory pleading with a felony violation of  
9 Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351,  
10 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5,  
11 or 11379.6, the court in which the accusatory pleading is filed or  
12 the magistrate who issued the warrant of arrest shall, upon the  
13 motion of a law enforcement agency which is supported by  
14 reasonable cause, issue an order which requires the practitioner to  
15 surrender to the clerk of the court all triplicate prescription blanks  
16 or controlled substance prescription forms in the practitioner's  
17 possession at a time set in the order ~~and shall direct the Department~~  
18 ~~of Justice and the Board of Pharmacy to withhold controlled~~  
19 ~~substance prescription forms from the practitioner. The law~~  
20 ~~enforcement agency obtaining the order shall notify the~~  
21 ~~Department of Justice and the Board of Pharmacy of this order.~~  
22 Except as provided in subdivisions (b) and (e) of this section, the  
23 order shall remain in effect until further order of the court. Any  
24 practitioner possessing prescription blanks in violation of the  
25 order is guilty of a misdemeanor.

26 (b) The order provided by subdivision (a) shall be vacated if the  
27 court or magistrate finds that the underlying violation or violations  
28 are not supported by reasonable cause at a hearing held within two  
29 court days after the practitioner files and personally serves upon  
30 the prosecuting attorney and the law enforcement agency that  
31 obtained the order, a notice of motion to vacate the order with any  
32 affidavits on which the practitioner relies. At the hearing, the  
33 burden of proof, by a preponderance of the evidence, is on the  
34 prosecution. Evidence presented at the hearing shall be limited to  
35 the warrant of arrest with supporting affidavits, the motion to  
36 require the defendant to surrender all triplicate prescription blanks  
37 or controlled substance prescription forms with supporting  
38 affidavits, the sworn complaint together with any documents or  
39 reports incorporated by reference thereto which, if based on  
40 information and belief, state the basis for the information, or any

1 other documents of similar reliability as well as affidavits and  
2 counter affidavits submitted by the prosecution and defense.  
3 Granting of the motion to vacate the order is no bar to prosecution  
4 of the alleged violation or violations.

5 (c) The defendant may elect to challenge the order issued under  
6 subdivision (a) at the preliminary examination. At that hearing, the  
7 evidence shall be limited to that set forth in subdivision (b) and any  
8 other evidence otherwise admissible at the preliminary  
9 examination.

10 (d) If the practitioner has not moved to vacate the order issued  
11 under subdivision (a) by the time of the preliminary examination  
12 and he or she is held to answer on the underlying violation or  
13 violations, the practitioner shall be precluded from afterwards  
14 moving to vacate the order. If the defendant is not held to answer  
15 on the underlying charge or charges at the conclusion of the  
16 preliminary examination, the order issued under subdivision (a)  
17 shall be vacated.

18 (e) Notwithstanding subdivision (d), any practitioner who is  
19 diverted pursuant to Chapter 2.5 (commencing with Section 1000)  
20 of Title 7 of Part 2 of the Penal Code may file a motion to vacate  
21 the order issued under subdivision (a).

22 (f) This section shall become operative on July 1, 2004.

23 SEC. 6. Section 11161.5 is added to the Health and Safety  
24 Code, to read:

25 11161.5. (a) Prescription forms for controlled substance  
26 prescriptions shall be obtained from security printers approved by  
27 the Board of Pharmacy.

28 (b) The Board of Pharmacy may approve security printer  
29 applications after the applicant has provided the following  
30 information:

31 (1) Name, address, and telephone number of the applicant.

32 (2) Policies and procedures of the applicant for verifying the  
33 identity of the prescriber ordering controlled substance  
34 prescription forms.

35 (3) Policies and procedures of the applicant for verifying  
36 delivery of controlled substance prescription forms to prescribers.

37 (4) (A) The location, names, and titles of the applicant's agent  
38 for service of process in this state; all principal corporate officers,  
39 if any; and all managing general partners, if any.



1 (B) A report containing this information shall be made on an  
2 annual basis and within 30 days after any change of office,  
3 principal corporate officers, or managing general partner.

4 (5) (A) A signed statement indicating whether the applicant,  
5 principal corporate officers, or managing general partners have  
6 ever been convicted of, or pled no contest to, a violation of any law  
7 of a foreign country, the United States, or any state, or of any local  
8 ordinance.

9 (B) The applicant shall also provide fingerprints, in a manner  
10 specified by the Board of Pharmacy, for the purpose of completing  
11 state and federal criminal background checks.

12 (c) Prior to approving a security printer application, the Board  
13 of Pharmacy shall submit a copy of the application to the  
14 Department of Justice; the Department of Justice may, within 30  
15 calendar days of receipt of the application from the Board of  
16 Pharmacy, deny the security printer application.

17 (d) The Board of Pharmacy or the Department of Justice may  
18 deny a security printer application on any of the following  
19 grounds:

20 (1) The applicant has been convicted of a crime. A conviction  
21 within the meaning of this paragraph means a plea or verdict of  
22 guilty or a conviction following a plea of nolo contendere. Any  
23 action which a board is permitted to take following the  
24 establishment of a conviction may be taken when the time for  
25 appeal has elapsed, the judgment of conviction has been affirmed  
26 on appeal, or when an order granting probation is made suspending  
27 the imposition of sentence, irrespective of a subsequent order  
28 under the provisions of Section 1203.4 of the Penal Code.

29 (2) The applicant committed any act involving dishonesty,  
30 fraud, or deceit with the intent to substantially benefit himself or  
31 another, or substantially injure another.

32 (3) The applicant committed any act that would constitute a  
33 violation of this division.

34 (4) The applicant knowingly made a false statement of fact  
35 required to be revealed in the application to produce controlled  
36 substance prescription forms.

37 (5) The Board of Pharmacy or Department of Justice  
38 determines that the applicant failed to demonstrate adequate  
39 security procedures relating to the production and distribution of  
40 controlled substance prescription forms.



(6) The Board of Pharmacy or Department of Justice determines that the applicant has submitted an incomplete application.

(e) The Board of Pharmacy shall maintain a list of approved security printers and the Board of Pharmacy shall make this information available to prescribers.

(f) Before printing any controlled substance prescription forms, a security printer shall verify with the appropriate licensing board that the prescriber possesses a license and current prescribing privileges which permits the prescribing of controlled substances.

(g) Controlled substance prescription forms shall be provided directly to the prescriber either in person, by certified mail, or by a means that requires a signature signifying receipt of the package and provision of that signature to the security printer.

(h) Security printers shall retain ordering and delivery records in a readily retrievable manner for individual prescribers for three years.

(i) Security printers shall produce ordering and delivery records upon request by an authorized officer of the law as defined in Section 4017 of the Business and Professions Code.

(j) (1) The Board of Pharmacy or the Department of Justice may revoke its approval of a security printer for a violation of this division or action that would permit a denial pursuant to subdivision ~~(e)~~ (d) of this section.

(2) When the Board of Pharmacy or the Department of Justice revokes its approval, it shall notify the appropriate licensing boards and remove the security printer from the list of approved security printers.

(k) Security printer applicants may appeal a denial or revocation by the Board of Pharmacy to the full board in a public meeting of the Board of Pharmacy.

SEC. 7. Section 11161.7 is added to the Health and Safety Code, to read:

11161.7. (a) When a prescriber's authority to prescribe controlled substances is restricted by civil, criminal, or administrative action, or by an order of the court issued pursuant to Section 11161, the law enforcement agency or licensing board that sought the restrictions shall provide the name, category of licensure, license number, and the nature of the restrictions

1 imposed on the prescriber to security printers and the Board of  
2 Pharmacy.

3 (b) The Board of Pharmacy shall make available the  
4 information required by subdivision (a) to pharmacies and security  
5 printers to prevent the dispensing of controlled substance  
6 prescriptions issued by the prescriber and the ordering of  
7 additional controlled substance prescription forms by the  
8 restricted prescriber.

9 SEC. 8. Section 11162 of the Health and Safety Code is  
10 amended to read:

11 11162. (a) The prescription blanks shall be printed on  
12 distinctive paper, the serial number of the group being shown on  
13 each form, and each form being serially numbered. The  
14 prescription blanks shall bear the preprinted name, address, and  
15 category of professional licensure of the practitioner to whom they  
16 are issued, and the federal registry number for controlled  
17 substances.

18 (b) This section shall become inoperative on July 1, 2004, and,  
19 as of January 1, 2005, is repealed.

20 SEC. 9. Section 11162.1 is added to the Health and Safety  
21 Code, to read:

22 11162.1. (a) The prescription forms for controlled  
23 substances shall be printed with the following features:

24 (1) A latent, repetitive “void” pattern shall be printed across  
25 the entire front of the prescription blank; if a prescription is  
26 scanned or photocopied, the word “void” shall appear in a pattern  
27 across the entire front of the prescription.

28 (2) A watermark shall be printed on the backside of the  
29 prescription blank; the watermark shall consist of the words  
30 “California Security Prescription.”

31 (3) A chemical void protection that prevents alteration by  
32 chemical washing.

33 (4) A feature printed in thermo-chromic ink.

34 (5) An area of opaque writing so that the writing disappears if  
35 the prescription is lightened.

36 (6) A description of the security features included on each  
37 prescription form.

38 (7) (A) Six quantity check off boxes shall be printed on the  
39 form and the following quantities shall appear:

40 1-24

1 25-49  
2 50-74  
3 75-100  
4 101-150 151 and over.

5 (B) In conjunction with the quantity boxes, a space shall be  
6 provided to designate the units referenced in the quantity boxes  
7 when the drug is not in tablet or capsule form.

8 (8) Prescription blanks shall either (A) contain a statement  
9 printed on the bottom of the prescription blank that the  
10 “Prescription is void if more than one controlled substance  
11 prescription is written per blank” or (B) contain a space for the  
12 prescriber to specify the number of drugs prescribed on the  
13 prescription and a statement printed on the bottom of the  
14 prescription blank that the “Prescription is void if the number of  
15 drugs prescribed is not noted.”

16 (9) The preprinted name, category of licensure, license  
17 number, and federal controlled substance registration number of  
18 the prescribing practitioner.

19 (10) A check box indicating the prescriber’s order not to  
20 substitute.

21 (b) Each batch of controlled substance prescription forms shall  
22 have the lot number printed on the form and each form within that  
23 batch shall be numbered sequentially beginning with the numeral  
24 one.

25 (c) (1) A prescriber designated by a licensed health care  
26 facility may order controlled substance prescription forms for use  
27 by prescribers when treating patients in that facility without the  
28 information required in paragraph (9) of subdivision (a).

29 (2) Forms ordered pursuant to this subdivision shall have the  
30 name, category of licensure, license number and federal controlled  
31 substance registration number of the designated prescriber and the  
32 name, address, category of licensure and license number of the  
33 licensed health care facility preprinted on the form.

34 (3) Forms ordered pursuant to this section shall not be valid  
35 prescriptions without the name, category of licensure, license  
36 number, and federal controlled substance registration number of  
37 the prescriber on the form.

38 (4) (A) The designated prescriber shall maintain a record of  
39 the prescribers to whom controlled substance prescription forms  
40 are issued.

(B) The record shall include the name, category of licensure, license number, federal controlled substance registration number, and the quantity of controlled substance prescription forms issued to each prescriber; the record shall be maintained in the health facility for three years.

(d) This section shall become operative on July 1, 2004.

SEC. 10. Section 11162.6 is added to the Health and Safety Code, to read:

11162.6. (a) Every person who counterfeits a controlled substance prescription form shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) Every person who knowingly possesses a counterfeited controlled substance prescription form shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) Every person who attempts to obtain or obtains a controlled substance prescription form under false pretenses shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(d) Every person who fraudulently produces controlled substance prescription forms shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) This section shall become operative on July 1, 2004.

SEC. 11. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance unless it complies with the requirements of this section.

(a) The signature on each prescription for a controlled substance classified in Schedule II shall be wholly written in ink ~~or indelible pencil~~ in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Each prescription shall be prepared in triplicate, signed by the

1 prescriber, and shall contain, either typewritten or handwritten by  
 2 the prescriber or his or her employee, the date, name, and address  
 3 of the person for whom the controlled substance is prescribed, the  
 4 name, quantity, and strength of the controlled substance  
 5 prescribed, directions for use, and the address, category of  
 6 professional licensure, and the federal controlled substance  
 7 registration number of the prescriber. The original and duplicate  
 8 of the prescription shall be delivered to the pharmacist filling the  
 9 prescription. The duplicate shall be retained by the pharmacist and  
 10 the original, properly endorsed by the pharmacist with the name  
 11 and address of the pharmacy, the pharmacy's state license number,  
 12 the date the prescription was filled and the signature of the  
 13 pharmacist, shall be transmitted to the Department of Justice at the  
 14 end of the month in which the prescription was filled. Upon receipt  
 15 of an incompletely prepared official prescription form of the  
 16 Department of Justice, the pharmacist may enter on the face of the  
 17 prescription the address of the patient. A pharmacist may fill a  
 18 prescription for a controlled substance classified in Schedule II  
 19 containing an error or errors, if the pharmacist notifies the  
 20 prescriber of the error or errors and the prescriber approves any  
 21 correction. The prescriber shall fax or mail a corrected  
 22 prescription to the pharmacist within seven days of the  
 23 prescription being dispensed.

24 (b) Each prescription for a controlled substance classified in  
 25 Schedule III, IV, or V, except as authorized by subdivision (c),  
 26 shall be subject to the following requirements:

27 (1) The prescription shall be signed and dated by the prescriber  
 28 and shall contain the name of the person for whom the controlled  
 29 substance is prescribed, the name and quantity of the controlled  
 30 substance prescribed, and directions for use. With respect to  
 31 prescriptions for controlled substances classified in Schedules III  
 32 ~~and IV, the signature, date, and information required by this~~  
 33 ~~paragraph shall be wholly written in ink or indelible pencil in the~~  
 34 *and IV, the signature and date shall be wholly written in ink in the*  
 35 handwriting of the prescriber.

36 (2) In addition, the prescription shall contain the name,  
 37 address, telephone number, category of professional licensure, and  
 38 federal controlled substance registration number of the prescriber.  
 39 The information required by this paragraph shall be either  
 40 preprinted upon the prescription blank, typewritten, rubber



1 stamped, or printed by hand. Notwithstanding any provision in this  
2 section, the prescriber's address, telephone number, category of  
3 professional licensure, or federal controlled substances  
4 registration number need not appear on the prescription if that  
5 information is readily retrievable in the pharmacy.

6 (3) The prescription shall also contain the address of the person  
7 for whom the controlled substance is prescribed. If the prescriber  
8 does not specify this address on the prescription, the pharmacist  
9 filling the prescription or an employee acting under the direction  
10 of the pharmacist shall write or type the address on the prescription  
11 or maintain this information in a readily retrievable form in the  
12 pharmacy.

13 (c) Any controlled substance classified in Schedule III, IV, or  
14 V may be dispensed upon an oral or electronically transmitted  
15 prescription, which shall be reduced to writing by the pharmacist  
16 filling the prescription or by any other person expressly authorized  
17 by provisions of the Business and Professions Code. The date of  
18 issue of the prescription and all the information required for a  
19 written prescription by subdivision (b) shall be included in the  
20 written record of the prescription. The pharmacist need not reduce  
21 to writing the address, telephone number, license classification, or  
22 federal registry number of the prescriber or the address of the  
23 patient if that information is readily retrievable in the pharmacy.  
24 Pursuant to authorization of the prescriber, any employee of the  
25 prescriber on behalf of the prescriber may orally or electronically  
26 transmit a prescription for a controlled substance classified in  
27 Schedule III, IV, or V, if in these cases the written record of the  
28 prescription required by this subdivision specifies the name of the  
29 employee of the prescriber transmitting the prescription.

30 (d) The use of commonly used abbreviations shall not  
31 invalidate an otherwise valid prescription.

32 (e) Notwithstanding any provision of subdivisions (b) and (c),  
33 prescriptions for a controlled substance classified in Schedule V  
34 may be for more than one person in the same family with the same  
35 medical need.

36 (f) In addition to the prescriber's record required by Section  
37 11190, any practitioner dispensing a controlled substance  
38 classified in Schedule II in accordance with subdivision (b) of  
39 Section 11158 shall prepare a written record thereof on the official  
40 forms issued by the Department of Justice, pursuant to Section

1 11161, and shall transmit the original to the Department of Justice  
2 in accordance with any rules that the department may adopt for  
3 completion and transmittal of the forms.

4 (g) This section shall become inoperative on July 1, 2004, and,  
5 as of January 1, 2005, is repealed.

6 SEC. 12. Section 11164 is added to the Health and Safety  
7 Code, to read:

8 11164. Except as provided in Section 11167, no person shall  
9 prescribe a controlled substance, nor shall any person fill,  
10 compound, or dispense a prescription for a controlled substance  
11 unless it complies with the requirements of this section.

12 (a) (1) The signature on each prescription for a controlled  
13 substance classified in Schedule II shall be wholly written in ink  
14 in the handwriting of the prescriber upon the official prescription  
15 form issued by the Department of Justice or on a controlled  
16 substance prescription form that meets the requirements of Section  
17 11162.1.

18 (2) Each prescription shall be signed by the prescriber and shall  
19 contain, either typewritten or handwritten by the prescriber or his  
20 or her agent, the date, name, and address of the person for whom  
21 the controlled substance is prescribed; the name, quantity, strength  
22 of the controlled substance prescribed, and directions for use; and  
23 the address, category of professional licensure, and federal  
24 controlled substance registration number of the prescriber.

25 (3) If the prescriber uses an official prescription form issued by  
26 the Department of Justice, the original and duplicate of the  
27 prescription shall be delivered to the pharmacist filling the  
28 prescription; the duplicate shall be retained by the pharmacist and  
29 the original, properly endorsed by the pharmacist with the name  
30 and address of the pharmacy, the pharmacy's state license number,  
31 the date the prescription was filled and the signature of the  
32 pharmacist, shall be transmitted to the Department of Justice at the  
33 end of the month in which the prescription was filled.

34 (4) Upon receipt of an incompletely prepared official  
35 prescription form of the Department of Justice, the pharmacist  
36 may enter on the face of the prescription the address of the patient.

37 (5) A pharmacist may fill a prescription for a controlled  
38 substance classified in Schedule II containing an error or errors, if  
39 the pharmacist notifies the prescriber of the error or errors and the  
40 prescriber approves any correction; the prescriber shall fax or mail



1 a corrected prescription to the pharmacist within seven days of the  
2 prescription being dispensed.

3 (b) Each prescription for a controlled substance classified in  
4 Schedule III, IV, or V, except as authorized by subdivision (c),  
5 shall be subject to the following requirements:

6 (1) The prescription shall be signed and dated by the prescriber  
7 and shall contain the name of the person for whom the controlled  
8 substance is prescribed, the name and quantity of the controlled  
9 substance prescribed, and directions for use. With respect to  
10 prescriptions for controlled substances classified in Schedules III  
11 and IV, the signature and date shall be written in ink in the  
12 handwriting of the prescriber.

13 (2) (A) In addition, the prescription shall contain the name,  
14 address, telephone number, category of professional licensure, and  
15 federal controlled substance registration number of the prescriber.

16 (B) The information required by this paragraph shall be either  
17 preprinted upon the prescription blank, typewritten, rubber  
18 stamped, or printed by hand.

19 (C) Notwithstanding any provision in this section, the  
20 prescriber's address, telephone number, category of professional  
21 licensure, or federal controlled substances registration number  
22 need not appear on the prescription if that information is readily  
23 retrievable in the pharmacy.

24 (3) The prescription shall also contain the address of the person  
25 for whom the controlled substance is prescribed; if the prescriber  
26 does not specify this address on the prescription, the pharmacist  
27 filling the prescription or an ~~employee~~ *agent* acting under the  
28 direction of the pharmacist shall write or type the address on the  
29 prescription or maintain this information in a readily retrievable  
30 form in the pharmacy.

31 (c) (1) Any controlled substance classified in Schedule III, IV,  
32 or V may be dispensed upon an oral or electronically transmitted  
33 prescription, which shall be produced in hard copy form and  
34 signed and dated by the pharmacist filling the prescription or by  
35 any other person expressly authorized by provisions of the  
36 Business and Professions Code.

37 (2) The date of issue of the prescription and all the information  
38 required for a written prescription by subdivision (b) shall be  
39 included in the written record of the prescription; the pharmacist  
40 need not include the address, telephone number, license

1 classification, or federal registry number of the prescriber or the  
2 address of the patient if that information is readily retrievable in  
3 the pharmacy.

4 (3) Pursuant to an authorization of the prescriber, any agent of  
5 the prescriber on behalf of the prescriber may orally or  
6 electronically transmit a prescription for a controlled substance  
7 classified in Schedule III, IV, or V, if in these cases the hard copy  
8 record of the prescription required by this subdivision specifies the  
9 name of the agent of the prescriber transmitting the prescription.

10 (d) The use of commonly used abbreviations shall not  
11 invalidate an otherwise valid prescription.

12 (e) Notwithstanding subdivisions (b) and (c), prescriptions for  
13 a controlled substance classified in Schedule V may be for more  
14 than one person in the same family with the same medical need.

15 ~~(f) (1) Notwithstanding any other provision of law, a~~  
16 ~~prescription for a controlled substance issued by a prescriber in~~  
17 ~~another state for delivery to a patient in another state may be~~  
18 ~~dispensed by a California pharmacy if the prescription conforms~~  
19 ~~with the requirements for controlled substance prescriptions in the~~  
20 ~~state in which the controlled substance was prescribed.~~

21 ~~(2) All prescriptions for Schedule II controlled substances~~  
22 ~~dispensed pursuant to this subdivision shall be reported by the~~  
23 ~~dispensing pharmacy to the Department of Justice in the manner~~  
24 ~~prescribed by subdivision (d) of Section 11165.~~

25 ~~(g) Pharmacies may dispense prescriptions for Schedule III,~~  
26 ~~Schedule IV, and Schedule V controlled substances from~~  
27 ~~out-of-state prescribers pursuant to Section 4005 of the Business~~  
28 ~~and Professions Code and Section 1717 of Title 16 of the~~  
29 ~~California Code of Regulations.~~

30 ~~(h)~~

31 (f) This section shall become operative on July 1, 2004, and  
32 shall remain in effect only until January 1, 2005, and as of that date  
33 is repealed.

34 SEC. 13. Section 11164 is added to the Health and Safety  
35 Code, to read:

36 11164. Except as provided in Section 11167, no person shall  
37 prescribe a controlled substance, nor shall any person fill,  
38 compound, or dispense a prescription for a controlled substance  
39 unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the person for whom the controlled substance is prescribed; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V

may be for more than one person in the same family with the same medical need.

~~(e) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.~~

~~(2) All prescriptions for Schedule II and Schedule III controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.~~

~~(f) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.~~

~~(g)~~

*(e) This section shall become operative on January 1, 2005.*

*SEC. 13.5. Section 11164.1 is added to the Health and Safety Code, to read:*

*11164.1. (a) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.*

*(2) All prescriptions for Schedule II controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.*

*(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.*

*SEC. 14. Section 11165 of the Health and Safety Code is amended to read:*

1 11165. (a) To assist law enforcement and regulatory agencies  
2 in their efforts to control the diversion and resultant abuse of  
3 Schedule II and Schedule III controlled substances, and for  
4 statistical analysis, education, and research, the Department of  
5 Justice shall, contingent upon the availability of adequate funds  
6 from the Contingent Fund of the Medical Board of California, the  
7 Pharmacy Board Contingent Fund, the State Dentistry Fund, and  
8 the Osteopathic Medical Board of California Contingent Fund,  
9 maintain the Controlled Substance Utilization Review and  
10 Evaluation System (CURES) for the electronic monitoring of the  
11 prescribing and dispensing of Schedule II and Schedule III  
12 controlled substances by all practitioners authorized to prescribe  
13 or dispense these controlled substances.

14 ~~(b) If funds in excess of that appropriated for CURES in the~~  
15 ~~2002-03 Budget Act are required to accommodate the reporting~~  
16 ~~of Schedule III controlled substance prescriptions, the reporting of~~  
17 ~~Schedule III controlled substance prescriptions shall be contingent~~  
18 ~~upon the availability of adequate funds from sources other than~~  
19 ~~those appropriated for the support of CURES in the 2002-03~~  
20 ~~Budget Act.~~

21 *(b) The reporting of Schedule III controlled substance*  
22 *prescriptions to CURES shall be contingent upon the availability*  
23 *of adequate funds from the Department of Justice. The Department*  
24 *of Justice may seek and use grant funds to pay the costs incurred*  
25 *from the reporting of controlled substance prescriptions to*  
26 *CURES. Funds shall not be appropriated from the Contingent*  
27 *Fund of the Medical Board of California, the Pharmacy Board*  
28 *Contingent Fund, the State Dentistry Fund, or the Osteopathic*  
29 *Medical Board of California Contingent Fund to pay the costs of*  
30 *reporting Schedule III controlled substance prescriptions to*  
31 *CURES.*

32 (c) CURES shall operate under existing provisions of law to  
33 safeguard the privacy and confidentiality of patients. Data  
34 obtained from CURES shall only be provided to appropriate state,  
35 local, and federal persons or public agencies for disciplinary, civil,  
36 or criminal purposes and to other agencies or entities, as  
37 determined by the Department of Justice, for the purpose of  
38 educating practitioners and others in lieu of disciplinary, civil, or  
39 criminal actions. Data may be provided to public or private  
40 entities, as approved by the Department of Justice, for educational,

1 peer review, statistical, or research purposes, provided that patient  
2 information, including any information that may identify the  
3 patient, is not compromised. Further, data disclosed to any  
4 individual or agency as described in this subdivision, shall not be  
5 disclosed, sold, or transferred to any third party.

6 (d) For each prescription for a Schedule II controlled  
7 substance, the dispensing pharmacy shall provide the following  
8 information to the Department of Justice in a frequency and format  
9 specified by the Department of Justice:

10 (1) Full name, address, gender, and date of birth of the patient.

11 (2) The prescriber's category of licensure and license number;  
12 federal controlled substance registration number; and the state  
13 medical license number of any prescriber using the federal  
14 controlled substance registration number of a government-exempt  
15 facility.

16 (3) Pharmacy prescription number, license number, and federal  
17 controlled substance registration number.

18 (4) NDC (National Drug Code) number of the controlled  
19 substance dispensed.

20 (5) Quantity of the controlled substance dispensed.

21 (6) ICD-9 (diagnosis code), if available.

22 (7) Date of issue of the prescription.

23 (8) Date of dispensing of the prescription.

24 (e) This section shall remain in effect only until January 1,  
25 2005, and as of that date is repealed.

26 SEC. 15. Section 11165 is added to the Health and Safety  
27 Code, to read:

28 11165. (a) To assist law enforcement and regulatory agencies  
29 in their efforts to control the diversion and resultant abuse of  
30 Schedule II and Schedule III controlled substances, and for  
31 statistical analysis, education, and research, the Department of  
32 Justice shall, contingent upon the availability of adequate funds  
33 from the Contingent Fund of the Medical Board of California, the  
34 Pharmacy Board Contingent Fund, the State Dentistry Fund, and  
35 the Osteopathic Medical Board of California Contingent Fund,  
36 maintain the Controlled Substance Utilization Review and  
37 Evaluation System (CURES) for the electronic monitoring of the  
38 prescribing and dispensing of Schedule II and Schedule III  
39 controlled substances by all practitioners authorized to prescribe  
40 or dispense these controlled substances.



~~(b) If funds in excess of that appropriated for CURES in the Budget Act are required to accommodate the reporting of Schedule III controlled substance prescriptions, the reporting of Schedule III controlled substance prescriptions shall be contingent upon the availability of adequate funds from sources other than those appropriated for the support of CURES in the Budget Act.~~

*(b) The reporting of Schedule III controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III controlled substance prescriptions to CURES.*

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision, shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II or Schedule III controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice in a frequency and format specified by the Department of Justice:

(1) Full name, address, gender, and date of birth of the patient.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal



1 controlled substance registration number of a government-exempt  
2 facility.

3 (3) Pharmacy prescription number, license number, and federal  
4 controlled substance registration number.

5 (4) NDC (National Drug Code) number of the controlled  
6 substance dispensed.

7 (5) Quantity of the controlled substance dispensed.

8 (6) ICD-9 (diagnosis code), if available.

9 (7) Date of issue of the prescription.

10 (8) Date of dispensing of the prescription.

11 (e) This section shall become operative on January 1, 2005.

12 SEC. 16. Section 11165.1 of the Health and Safety Code is  
13 amended to read:

14 11165.1. (a) (1) A licensed health care practitioner eligible  
15 to prescribe Schedule II or Schedule III controlled substances or  
16 a pharmacist may make a written request for, and the Department  
17 of Justice may release to that practitioner or pharmacist, the history  
18 of controlled substances dispensed to an individual under his or her  
19 care based on data contained in CURES.

20 (2) Any request for, or release of, a controlled substance history  
21 pursuant to this section shall be made in accordance with  
22 guidelines developed by the Department of Justice.

23 (b) In order to prevent the inappropriate, improper, or illegal  
24 use of Schedule II or Schedule III controlled substances, the  
25 Department of Justice may initiate the referral of the history of  
26 controlled substances dispensed to an individual based on data  
27 contained in CURES to licensed health care practitioners,  
28 pharmacists, or both, providing care or services to the individual.

29 (c) The history of controlled substances dispensed to an  
30 individual based on data contained in CURES that is received by  
31 a practitioner or pharmacist from the Department of Justice  
32 pursuant to this section shall be considered medical information  
33 subject to the provisions of the Confidentiality of Medical  
34 Information Act contained in Part 2.6 (commencing with Section  
35 56) of Division 1 of the Civil Code.

36 SEC. 17. Section 11166 of the Health and Safety Code is  
37 amended to read:

38 11166. No person shall fill a prescription for a controlled  
39 substance after six months has elapsed from the date written on the  
40 prescription by the prescriber. No person shall knowingly fill a

1 mutilated or forged or altered prescription for a controlled  
2 substance except for the addition of the address of the person for  
3 whom the controlled substance is prescribed as provided by  
4 paragraph (3) of subdivision (b) of Section 11164.

5 SEC. 18. Section 11167 of the Health and Safety Code is  
6 amended to read:

7 11167. Notwithstanding subdivision (a) of Section 11164, in  
8 an emergency where failure to issue a prescription may result in  
9 loss of life or intense suffering, an order for a Schedule II  
10 controlled substance may be dispensed on an oral, written, or  
11 electronic data transmission order, subject to all of the following  
12 requirements:

13 (a) The order contains all information required by subdivision  
14 (a) of Section 11164.

15 (b) Any written order is signed and dated by the prescriber in  
16 indelible pencil or ink, and the pharmacy reduces any oral or  
17 electronic data transmission order to writing prior to actually  
18 dispensing the controlled substance.

19 (c) The prescriber provides a triplicate prescription, completed  
20 as provided by subdivision (a) of Section 11164, by the seventh  
21 day following the transmission of the initial order; a postmark by  
22 the seventh day following transmission of the initial order shall  
23 constitute compliance.

24 (d) If the prescriber fails to comply with subdivision (c), the  
25 pharmacy shall so notify the Bureau of Narcotic Enforcement in  
26 writing within 144 hours of the prescriber's failure to do so and  
27 shall make and retain a written, readily retrievable record of the  
28 prescription, including the date and method of notification of the  
29 Bureau of Narcotic Enforcement.

30 (e) This section shall become inoperative on July 1, 2004, and,  
31 as of January 1, 2005, is repealed.

32 SEC. 19. Section 11167 is added to the Health and Safety  
33 Code, to read:

34 11167. Notwithstanding subdivision (a) of Section 11164, in  
35 an emergency where failure to issue a prescription may result in  
36 loss of life or intense suffering, an order for a Schedule II  
37 controlled substance may be dispensed on an oral, written, or  
38 electronic data transmission order, subject to all of the following  
39 requirements:

1 (a) The order contains all information required by subdivision  
2 (a) of Section 11164.

3 (b) Any written order is signed and dated by the prescriber in  
4 ink, and the pharmacy reduces any oral or electronic data  
5 transmission order to hard copy form prior to dispensing the  
6 controlled substance.

7 (c) The prescriber provides a written prescription on a triplicate  
8 prescription form or a controlled substance prescription form that  
9 meets the requirements of Section 11162.1, by the seventh day  
10 following the transmission of the initial order; a postmark by the  
11 seventh day following transmission of the initial order shall  
12 constitute compliance.

13 (d) If the prescriber fails to comply with subdivision (c), the  
14 pharmacy shall so notify the Bureau of Narcotic Enforcement in  
15 writing within 144 hours of the prescriber's failure to do so and  
16 shall make and retain a hard copy, readily retrievable record of the  
17 prescription, including the date and method of notification of the  
18 Bureau of Narcotic Enforcement.

19 (e) This section shall become operative on July 1, 2004, and  
20 shall remain in effect until January 1, 2005, at which time it is  
21 repealed.

22 SEC. 20. Section 11167 is added to the Health and Safety  
23 Code, to read:

24 11167. Notwithstanding subdivision (a) of Section 11164, in  
25 an emergency where failure to issue a prescription may result in  
26 loss of life or intense suffering, an order for a controlled substance  
27 may be dispensed on an oral, written, or electronic data  
28 transmission order, subject to all of the following requirements:

29 (a) The order contains all information required by subdivision  
30 (a) of Section 11164.

31 (b) Any written order is signed and dated by the prescriber in  
32 ink, and the pharmacy reduces any oral or electronic data  
33 transmission order to hard copy form prior to dispensing the  
34 controlled substance.

35 (c) The prescriber provides a written prescription on a  
36 controlled substance prescription form that meets the  
37 requirements of Section 11162.1, by the seventh day following the  
38 transmission of the initial order; a postmark by the seventh day  
39 following transmission of the initial order shall constitute  
40 compliance.

(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall make and retain a hard copy, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

(e) This section shall become operative on January 1, 2005.

SEC. 21. Section 11167.5 of the Health and Safety Code is amended to read:

11167.5. (a) An order for a controlled substance classified in Schedule II in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care may be dispensed upon an oral or electronically transmitted prescription. Prior to filling the prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. The prescriptions shall be prepared in triplicate and shall contain the date the prescription was orally or electronically transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility or home health agency providing hospice care in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The duplicate shall be retained by the pharmacist, and the triplicate shall be forwarded to the prescriber by the end of the month in which the prescription was issued. The original shall be properly endorsed by the pharmacist with the pharmacy's state license number, the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. A skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall forward to the dispensing pharmacist a copy of any signed telephone orders, chart orders, or related documentation substantiating each oral or electronically transmitted prescription transaction under this section.

(b) For the purposes of this section, “hospice care” means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.

(c) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 22. Section 11167.5 is added to the Health and Safety Code, to read:

11167.5. (a) An order for a controlled substance classified in Schedule II for a patient of a licensed skilled nursing facility, a licensed intermediate care facility, a licensed home health agency, or a licensed hospice may be dispensed upon an oral or electronically transmitted prescription. If the prescription is transmitted orally, the pharmacist shall, prior to filling the prescription, reduce the prescription to writing in ink in the handwriting of the pharmacist on a form developed by the pharmacy for this purpose. If the prescription is transmitted electronically, the pharmacist shall, prior to filling the prescription, produce, sign, and date a hard copy prescription. The prescriptions shall contain the date the prescription was orally or electronically transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed skilled nursing facility, licensed intermediate care facility, licensed home health agency, or licensed hospice in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, *license number*, and federal controlled substance registration number of the prescriber. The original shall be properly endorsed by the pharmacist with the pharmacy’s state license number, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed skilled nursing facility, licensed intermediate care facility, licensed home health agency, or licensed hospice. A licensed skilled nursing facility, a licensed intermediate care facility, a licensed home health agency, or a licensed hospice shall forward to the dispensing pharmacist a copy of any signed telephone orders, chart orders, or related

1 documentation substantiating each oral or electronically  
2 transmitted prescription transaction under this section.

3 (b) This section shall become operative on July 1, 2004.

4 SEC. 23. Section 11168 of the Health and Safety Code is  
5 amended to read:

6 11168. (a) The prescription book containing the prescriber's  
7 copies of prescriptions issued shall be retained by the prescriber  
8 which shall be preserved for three years.

9 (b) This section shall remain in effect only until January 1,  
10 2008, and as of that date is repealed.

11 SEC. 24. Section 11169 of the Health and Safety Code is  
12 amended to read:

13 11169. (a) When codeine, or dihydrocodeinone or tincture  
14 opii camphorata (paregoric) is not combined with other medicinal  
15 ingredients, it shall be prescribed on the official triplicate blanks.

16 (b) This section shall become inoperative on July 1, 2004, and,  
17 as of January 1, 2005, is repealed.

18 SEC. 25. *Section 11190 of the Health and Safety Code is*  
19 *amended to read:*

20 11190. Every practitioner, other than a pharmacist, who issues  
21 a prescription, or dispenses or administers a controlled substance  
22 classified in Schedule II shall make a record that, as to the  
23 transaction, shows all of the following:

24 (a) The name and address of the patient.

25 (b) The date.

26 (c) The character, including the name and strength, and  
27 quantity of controlled substances involved.

28 The prescriber's record shall show the pathology and purpose  
29 for which the prescription is issued, or the controlled substance  
30 administered, prescribed, or dispensed.

31 *This section shall become inoperative on July 1, 2004, and, as*  
32 *of January 1, 2005, is repealed.*

33 SEC. 26. *Section 11190 is added to the Health and Safety*  
34 *Code, to read:*

35 11190. (a) *Every practitioner, other than a pharmacist, who*  
36 *prescribes or administers a controlled substance classified in*  
37 *Schedule II shall make a record that, as to the transaction, shows*  
38 *all of the following:*

39 (1) *The name and address of the patient.*

40 (2) *The date.*

1 (3) *The character, including the name and strength, and*  
2 *quantity of controlled substances involved.*

3 (b) *The prescriber's record shall show the pathology and*  
4 *purpose for which the controlled substance is administered or*  
5 *prescribed.*

6 (c) (1) *For each prescription for a Schedule II controlled*  
7 *substance that is dispensed by a prescriber pursuant to Section*  
8 *4170 of the Business and Professions Code, the prescriber shall*  
9 *record and maintain the following information:*

10 (A) *Full name, address, gender, and date of birth of the patient.*

11 (B) *The prescriber's category of licensure and license number;*  
12 *federal controlled substance registration number; and the state*  
13 *medical license number of any prescriber using the federal*  
14 *controlled substance registration number of a government-exempt*  
15 *facility.*

16 (C) *Pharmacy prescription number, license number, and*  
17 *federal controlled substance registration number.*

18 (D) *NDC (National Drug Code) number of the controlled*  
19 *substance dispensed.*

20 (E) *Quantity of the controlled substance dispensed.*

21 (F) *ICD-9 (diagnosis code), if available.*

22 (G) *Date of dispensing of the prescription.*

23 (2) *Each prescriber that dispenses controlled substances shall*  
24 *provide the Department of Justice the information required by this*  
25 *subdivision on a monthly basis in either hardcopy or electronic*  
26 *form.*

27 (d) *This section shall become operative on July 1, 2004, and*  
28 *shall remain in effect only until January 1, 2005, and as of that date*  
29 *is repealed.*

30 SEC. 27. *Section 11190 is added to the Health and Safety*  
31 *Code, to read:*

32 11190. (a) *Every practitioner, other than a pharmacist, who*  
33 *prescribes or administers a controlled substance classified in*  
34 *Schedule II shall make a record that, as to the transaction, shows*  
35 *all of the following:*

36 (1) *The name and address of the patient.*

37 (2) *The date.*

38 (3) *The character, including the name and strength, and*  
39 *quantity of controlled substances involved.*



1     **(b)** *The prescriber's record shall show the pathology and*  
2 *purpose for which the controlled substance is administered or*  
3 *prescribed.*

4     **(c)** *(1) For each prescription for a Schedule II or Schedule III*  
5 *controlled substance that is dispensed by a prescriber pursuant to*  
6 *Section 4170 of the Business and Professions Code, the prescriber*  
7 *shall record and maintain the following information:*

8         **(A)** *Full name, address, gender, and date of birth of the patient.*

9         **(B)** *The prescriber's category of licensure and license number;*  
10 *federal controlled substance registration number; and the state*  
11 *medical license number of any prescriber using the federal*  
12 *controlled substance registration number of a government-exempt*  
13 *facility.*

14         **(C)** *Pharmacy prescription number, license number, and*  
15 *federal controlled substance registration number.*

16         **(D)** *NDC (National Drug Code) number of the controlled*  
17 *substance dispensed.*

18         **(E)** *Quantity of the controlled substance dispensed.*

19         **(F)** *ICD-9 (diagnosis code), if available.*

20         **(G)** *Date of dispensing of the prescription.*

21     **(2)** *Each prescriber that dispenses controlled substances shall*  
22 *provide the Department of Justice the information required by this*  
23 *subdivision on a monthly basis in either hardcopy or electronic*  
24 *form.*

25     **(d)** *This section shall become operative on January 1, 2005.*

26     **SEC. 28.** No reimbursement is required by this act pursuant  
27 to Section 6 of Article XIII B of the California Constitution  
28 because the only costs that may be incurred by a local agency or  
29 school district will be incurred because this act creates a new crime  
30 or infraction, eliminates a crime or infraction, or changes the  
31 penalty for a crime or infraction, within the meaning of Section  
32 17556 of the Government Code, or changes the definition of a  
33 crime within the meaning of Section 6 of Article XIII B of the  
34 California Constitution.